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BEFORE THE
Federal Communications Commission
WASHINGTON, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of

Implementation of the Local Competition Provisions in the Telecommunications Act of 1996	)	CC Docket No. 96-98
Interconnection Between Local Exchange Carriers and Commercial Radio Service Providers	)	CC Docket No. 95-185

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To: The Commission

COMMENTS OF ARCH COMMUNICATIONS GROUP, INC.

Arch Communications Group, Inc. ("Arch"), pursuant to Section 1.429 of the Commission's Rules,[1] respectfully submits these brief Comments in response to various Petitions for Reconsideration filed with regard to the First Report and Order[2] ("First Report") issued in the captioned proceeding. These Comments focus primarily on the petitions filed by Kalida Telephone Company, Inc. ("Kalida") and the Local Exchange Carrier Coalition ("LECC"). Arch strongly opposes these parties' assertion that paging companies should not be compensated for terminating calls originated on LEC networks.

Discussion

In its Petition for Limited Reconsideration filed on September 30, 1996, Arch requested that the Commission reconsider its decision not to prescribe interim default proxy rates for paging-only carriers. As noted therein, this aspect of the First Report will

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1 47 C.F.R. § 1.429.

2 FCC 96-325.

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create a competitive imbalance because new entrants and other non-paging-only CMRS providers -- entities that are increasingly offering paging services --would be compensated for the termination of pages while paging-only companies would not be similarly compensated. Arch notes that similar views were expressed by AirTouch Paging and Paging Network, Inc.[3]

Two parties -- Kalida and LECC -- take a contrasting view. They assert that paging companies are not entitled to any compensation for termination of calls originated on LEC networks. Kalida argues that the current interconnection rate structure should be maintained because the paging end user is the cost causer.[4] LECC takes a similar view, claiming that paging companies should compensate LECs for the use of the LECs' networks.[5] These parties have it backwards -- the cost causer in this scenario is the LEC customer who seeks to call the paging end user, and the paging companies incur costs in terminating that LEC customer's call for which they are due compensation. The analysis is no different with calls originated on a LEC network that are terminated on a cellular network. The fact that the call to a cellular handset can result in a two-way conversation, while the call to a pager merely sends a signal, is irrelevant from the perspective of compensation principles. In both cases, the terminating carrier is incurring costs to

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3 AirTouch Petition at 18-22; PageNet Petition at 11-13.

4 Kalida Petition at 4-5. Although Kalida states that it charges paging providers at a flat-rate of $52.23 per trunk, Kalida Petition at 5, Arch in fact is charged $189.90 per trunk per month for the interconnect facilities provided by Kalida. Moreover, Kalida charges a monthly recurring fee of $23.00 per 100 numbers, an amount well in excess of costs. It is understandable that Kalida would prefer a continuation of the current interconnection rate structure given these high figures.

5 LECC Petition at 17-18.

complete a call originated on another carrier's network. The terminating carrier is entitled to compensation for providing this service.

This, of course, is the very compensation scheme mandated by Congress. Kalida claims that the reciprocal compensation obligations imposed on LECs in Section 251 (b)(5) of the Act do not apply in situations where, as here, the traffic flows in only one direction. But a plain reading of that provision, as referenced in Section 252(d)(2)(A), yields the contrary conclusion. Pursuant to this latter provision, State commissions are to find reciprocal compensation terms and conditions just and reasonable only if "each carrier" recovers the "costs associated with the transport and termination on each carrier's network facilities of calls that originate on the Network facilities of the other carrier." In the paging scenario, since all calls originate on the LEC's network, paging companies are entitled to compensation for costs incurred in the transport and termination of such calls. LECs, in contrast, do not incur termination costs, and they are therefore not entitled to receive any compensation. This interpretation is fully consistent with Section 251(b)(5), since "each carrier" receives what it is due. There is nothing in the statute to suggest that one carrier must forego compensation for expenses incurred simply because the other carrier has no similar expenses.

Kalida's contention that universal service issues are relevant to this analysis is also misplaced.[6] Congress has directed the Commission in Section 254 of the Act to "initiate a single proceeding" to implement recommendations from a Federal-State Joint Board regarding universal service support mechanisms and to address funding for such mecha-

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[6] Kalida Petition at 7-8.

nisms. That proceeding is underway. Consistent with its obligations under Section 254, the Commission explicitly and properly concluded in the First Report "that funding for any universal mechanisms adopted in the universal service proceeding may not be included in the rates for interconnection . . . ."[7] Kalida's effort to inject universal service concerns into the instant proceeding is misplaced.[8]

A separate point raised by LECC concerns the Commission's holding that compensation arrangements between LECs and CMRS providers will be based on MTAs. LECC objects to this determination on a variety of grounds, which generally reduce to the proposition that MTAs are generally larger than traditional landline local calling areas, often covering territory in more than one state. The fact is that wireless service areas have never coincided with local exchange boundaries.[9] The Commission's decision to utilize MTAs for purposes of LEC-CMRS interconnection arrangements was therefore a proper one.

As a final matter, a number of parties have suggested measures that should be adopted to help ensure that LECs negotiate in good faith. Arch supports these parties' recommendations given historic difficulties in obtaining interconnection at reasonable rates. In this regard, the Commission should adopt the proposals made by Comcast

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7 First Report at ¶ 712.

8 LECC contends that the First Report's holding will result in a subsidy to paging companies. LECC Petition at 18. Kalida's comments regarding universal service implications make clear that, in fact, the paging companies have been subsidizing the LECs all these years.

9 This is the very point which prompted Congress in 1993, through its amendments to Section 332 and Section 2(b) of the Act, to establish an entirely different regulatory scheme governing CMRS services.

Local Telecommunications Services[7] to make copies of existing interconnection agreements more readily available to requesting carriers. Moreover, Pilgrim Telephone, Inc. has asked the Commission to declare that specified actions that may be undertaken by LECs would be considered a violation of the obligation to negotiate in good faith.[8] Arch also supports these recommendations.

For the foregoing reasons, Arch respectfully requests that the Petitions for Reconsideration and Clarification filed by Kalida Telephone Company, Inc. and the Local Exchange Carrier Coalition be denied.

Respectfully submitted,

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October 31, 1996

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7 ALTS Petition at 9-10; Comcast/Vanguard Petition at 19-22.

8 Pilgrim Petition at 7-8.

CERTIFICATE OF SERVICE

I, Joy Griffiths, hereby certify that copies of the foregoing Comments in Response to Petitions for Reconsideration were served this 31st day of October, 1996, by first-class postage prepaid to the following:

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